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C O N F I D E N T I A L SECTION 01 OF 02 MADRID 001670

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E.O. 12958: DECL: 08/31/2017
TAGS: [PREL](#) [EWWT](#) [PBTS](#) [PHSA](#) [SCUL](#) [SP](#) [CA](#)
SUBJECT: ODYSSEY UPDATE: AMBASSADOR DELIVERS ODYSSEY
DIPNOTE TO FOREIGN MINISTER

REF: A. SECSTATE 116004

[1](#)B. MADRID 01359

Classified By: AMBASSADOR EDUARDO AGUIRRE FOR REASONS 1.4 (b) and (d)

[1](#)1. (C) Summary. On August 29, the Ambassador delivered reftel A dipnote to Foreign Minister Miguel Angel Moratinos, who promised to provide a subsequent diplomatic note incorporating the necessary information and assurances. Post's DHS-ICE Attache, who already has in hand the import documentation requested by Spanish Customs, will provide that information once the Embassy receives the note. Meanwhile, the Odyssey Explorer vessel remains docked in Gibraltar, but potentially may leave port in September. If this occurs, Spanish enforcement agencies will likely attempt to detain and search the ship in an effort to learn more about the site of the Black Swan shipwreck, which GOS believes to be of Spanish origin. The Ambassador urged Minister Moratinos to ensure that the ship and any American citizens on board be treated with due consideration should this occur. End Summary.

AMBASSADOR DELIVERS DIPNOTE

[1](#)2. (C) On August 29, the Ambassador delivered reftel A dipnote to Foreign Minister Moratinos, who expressed appreciation for the USG assistance on this matter. Moratinos promised to provide a subsequent diplomatic note within a week taking into consideration the concerns raised by the Ambassador. The import documentation from Customs and Border Protection has been received by Post's DHS-ICE Attache, who will deliver them to Spanish Customs once MFA provides the diplomatic note. (Note: Although these assurances are not necessary for DHS-ICE to share the information with Spanish customs, this step is one which Post feels will reinforce the seriousness of confidentiality concerns.)

[1](#)3. (SBU) During the meeting with Moratinos, the Ambassador urged that the GOS treat the remaining Odyssey ship, the Odyssey Explorer, with due consideration if or when the vessel sails from Gibraltar. The Ambassador added his concerns for the fair treatment of any U.S. citizens that may be on board, referencing complaints about aggressive Spanish treatment during the week-long detention of the Odyssey's other vessel, the Ocean Alert. Jose "Pepe" Pons, MFA's Director General for Europe and North American Affairs, also present in the meeting, acknowledged the Ambassador's comments but noted that the search warrant against the Odyssey ship was of a judicial nature, and as such the MFA had no purview over its execution.

ODYSSEY SHIP MAY SAIL OUT IN SEPTEMBER

14. (C) In a separate conversation August 27, representatives from the British Embassy told EconOff that the Odyssey Explorer would most likely begin offloading its cargo at a British Defence Ministry Pier September 1, allowing the ship to sail out without fear of its cargo being confiscated by the Spanish. During the conversation with EconOff, the British Embassy official explained that the Ministry of Defence as well as the Government of Gibraltar were partially responsible for the Odyssey Explorer's long stay in Gibraltar. Both governments delayed allowing Odyssey offloading privileges while considering a request from Spain to confiscate the materials. This past week, the British Ministry of Defence received a letter from Odyssey lawyers threatening a legal suit if the cargo "embargo" continued. The Ministry reviewed the terms of its contract with Odyssey and Odyssey's use of the MoD pier, and determined that Odyssey could have a valid case. Hence the British will allow Odyssey to offload starting September 1.

15. (C) The Spanish search warrant against this vessel remains active, and as such Spain may attempt to detain the ship as it sails in disputed international waters, past the 3-mile mark from Gibraltar's coast. In a related incident July 12, Spanish authorities detained Odyssey Marine Exploration's Ocean Alert vessel for one week while executing the same Spanish search warrant to which the Odyssey Explorer is subject (ref B). Spanish forces forcibly escorted Odyssey's Ocean Alert from disputed international waters into the Port of Algeciras. The Ocean Alert was searched extensively, and some materials confiscated, but was allowed to leave the Spanish Port of Algeciras a week later. During this search,

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no crew members were arrested. The British Embassy filed a diplomatic note denouncing the Spanish incursion into disputed international waters, but decided not to pursue stronger action.

COMMENT

16. (C) Each day that the Odyssey Explorer remains in Gibraltar represents 20,000 euros that Odyssey must pay in docking fees to the British government. Given this cost, it is likely that the ship will sail out as soon as it is able to offload and assure the safekeeping of its cargo. The cargo includes both underwater exploration machinery as well as additional artifacts from the Black Swan shipwreck site, such as ingots and wood remains. Spanish officials want these materials because they believe that the artifacts will support assertions that the Black Swan shipwreck is of Spanish military provenance. Regardless of whether these materials are on board when the Odyssey Explorer sails out, it is likely that the Guardia Civil and Spanish Navy will attempt to detain and search the ship. Though local press coverage of the Black Swan shipwreck has diminished in recent weeks, concern about the issue has not. As an example, the new Spanish Culture Minister recently announced to Congress a new national plan to protect Spain's "underwater archeological heritage."
AGUIRRE